

REVISED LAWS OF MINNESOTA *94*

SUPPLEMENT 1909

CONTAINING

THE AMENDMENTS TO THE REVISED LAWS,
AND OTHER LAWS OF A GENERAL AND
PERMANENT NATURE, ENACTED
BY THE LEGISLATURE IN
1905, 1907, AND 1909

WITH HISTORICAL AND EXPLANATORY NOTES TO PRIOR STATUTES
AND FULL AND COMPLETE NOTES OF ALL
APPLICABLE DECISIONS

COMPILED AND ANNOTATED BY
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3535b. Same—Scaling and marking—Duty of surveyor general—Fees.—Every person who shall engage in raising or floating logs or timber under the provisions of 3535a shall cause all logs and other timber raised or floated by him to be scaled at time of such raising or floating by the surveyor general of the log and lumber district within which such logs or timber is raised or floated, and shall place on each log and piece of timber so raised a suitable log mark, which mark shall only be used on logs or timber so raised or floated. The surveyor general of the proper log and lumber district shall attend in person or by deputy at the raising and floating of such logs or timber, and promptly scale the same, recording the size, kind, and all marks on each piece thereof. For such service said surveyor general shall receive in addition to all fees now allowed by law the further sum of five dollars for each day's attendance under the provisions hereof, and such fees shall be paid by the person so employing him and shall be taken and held to be a part of the cost of raising and floating such logs and timber. Provided, however, that no such work shall be performed within the limits of any operating boom company organized under the laws of the State of Minnesota, except under the supervision and direction of some representative of the boom company within whose limits such work is being carried on. (R. L. c. 69, as amended by Laws 1907, c. 428, § 1.)

See note under section next preceding.

IN OTHER CASES.

3546. For threshing grain.

Constitutionality.—This section does not violate Const. art. 1, §§ 2, 7, 11, or article 4, §§ 33, 34, or Const. U. S. art. 1, § 10, or section 1 of the fourteenth amendment thereof. *Phelan v. Terry*, 101 Minn. 454, 112 N. W. 872.

3547. How preserved and enforced.

Statement.—Statement held sufficient. *Phelan v. Terry*, 101 Minn. 454, 112 N. W. 872.

Foreclosure.—The rules and principles applicable to foreclosure of chattel mortgages apply to proceedings to foreclose the lien. *Phelan v. Terry*, 101 Minn. 454, 112 N. W. 872.

Claim and delivery.—The claimant, having perfected his lien, may maintain claim and delivery to recover the possession of the grain against a person wrongfully detaining it. *Phelan v. Terry*, 101 Minn. 454, 112 N. W. 872.

CHAPTER 70.

MARRIAGE.

3553. Who capable of contracting.

Cited in *State v. Sager*, 99 Minn. 54, 108 N. W. 812.

See note under section 4930.

3562. Record and certificate.—Every person solemnizing a marriage shall make a record thereof, and within one month make and file with the clerk of the district court of the county in which the license was issued a certificate, under his hand, containing the facts mentioned in section 3561, which certificate shall be filed and recorded by said clerk in a book kept by him for that purpose; and said clerk shall be entitled to receive twenty-five cents for recording said certificate from the person offering the same for record. (R. L. § 3562, as amended by Laws 1909, c. 386, § 1.)

Historical.—“An act to amend section 3562, Revised Laws of Minnesota for the year 1905, relating to the recording of marriage certificates.” Approved April 22, 1909.

See section [3562—] 1.

tioned in plaintiff's declaration (giving a description sufficient for identification of the animal), and that the plaintiff has a lien upon said animal for said amount. ('07 c. 47 § 12)

ON LOGS AND TIMBER.

Sections 3524-3540 cited in *Breckke v. Duluth Log Co.*, 101 Minn. 110, 111 N. W. 949.

See note under section 3527.

3526. Termination of lien.

Cited and applied in *Breckke v. Duluth Log Co.*, 101 Minn. 110, 111 N. W. 949.

See note under section next following.

3527. Action—Attachment.

Attachment.—The attachment proceedings are governed by section 4215 as to the time of issuing the writ, except as modified by section 3526. The remedy is provisional, and the issuance of the writ is not jurisdictional. It may issue at the time of issuing the summons, or at any time thereafter within 90 days from the time of filing the lien. *Breckke v. Duluth Log Co.*, 101 Minn. 110, 111 N. W. 949.

3531. Pleadings—Priority of liens.

Cited in *Breckke v. Duluth Log Co.*, 101 Minn. 110, 111 N. W. 949.

3535a. Submerged; buried or sunken logs—Bond—Lien—Conversion.—Any person desiring to raise or float any submerged, buried or sunken logs or other timber owned by him in any of the waters of this state and being hindered or obstructed in so doing by the logs or timber of another, and any person whose logs are sunken, buried or submerged, and so intermingled with those of another as to make it difficult to raise or float his own without raising and floating all, and who shall have filed in the office of the surveyor general of the log and lumber district wherein such logs or timber is situated a bond in the amount and with sureties approved by such surveyor general conditioned that such person will, on demand and on payment of any lien he may have thereon, deliver to the owners thereof at the nearest convenient place of separation, or the nearest advantageous market, all submerged, buried or sunken logs raised or floated by him in pursuance hereof, or in case such delivery be not so demanded, pay to the owner thereof, in pursuance of and according to the provisions of this section, and who shall from time to time renew such bond or give such additional bond as said surveyor general shall require, may raise and float all such obstructing or mingled logs or timber with his own and transport the same to some safe point where the same may be conveniently sorted and separated or advantageously marketed. And he shall have a lien upon the logs or timber so raised or floated for the reasonable value of his services in raising and floating the same, which shall be asserted and enforced as in the case of other liens upon logs and timber. Any person who shall convert to his own use any logs or timber of another upon which he has a lien under the provisions of this section, and the delivery of which has not been demanded by the owner thereof, shall be liable to the owner of the logs or timber so converted for the full value thereof at the time of such conversion, with interest, less the amount of such lien and payment of the amount of such liability shall be full compensation for all logs or timber so converted. (R. L. c. 69, as amended by Laws 1907, c. 428, § 1.)

Historical.—This chapter was amended, by inserting therein sections to be designated as sections 3535a and 3535b, by section 1 of an act entitled "An act relative to the raising and floating of submerged, sunken or buried logs and other timber in the waters or the beds of any waters in this state, providing a lien therefor and amendatory of chapter 69, Revised Laws 1905," approved April 25, 1907.

[3562—]1. **Record and certificate—Receipt.**—Every person solemnizing a marriage shall make a record thereof, and within one month make and deliver to the clerk of the district court of the county where the marriage took place, or of the county to which said county is attached for judicial purposes, a certificate under his hand containing the particulars mentioned in the preceding section, which certificate shall be filed and recorded by said clerk in a book by him kept for that purpose, and said clerk shall be entitled to receive the sum of twenty-five cents for recording said certificate from the person offering the same for record. And the clerk of said court shall execute a receipt to the person delivering said certificate, which said receipt shall be of even date with the delivery of said certificate, and shall contain substantially all of the facts set forth in said certificate; be signed by said clerk and have affixed thereto the seal of said court. (G. S. 1894, § 4778, as amended by Laws 1905, c. 294, § 1.)

Historical.—“An act to amend section four thousand seven hundred and seventy-eight of chapter sixty-one, of the General Statutes of 1894, relating to the recording of marriage certificates.” Approved April 19, 1905.

Said section 4778 was G. S. 1866, c. 61, § 11, as amended by Laws 1871 c. 94, § 1, and Laws 1883, c. 68, § 1. Said acts were repealed by R. L. §§ 5518, 5524, 5535; the provisions of said section 4778 being incorporated in R. L. § 3562. This amended section appears to be superseded by R. L. § 3562, as amended.

CHAPTER 71.

DIVORCE.

3570. What voidable.

In general.—An action to annul a marriage on the ground that it was procured by fraud and duress is not an action for divorce. *Waller v. Waller*, 102 Minn. 405, 113 N. W. 1013.

See note under section 4160.

3574. Grounds for divorce.—A divorce from the bonds of matrimony may be adjudged by the district court for any of the following causes:

1. Adultery.
2. Impotency.
3. Cruel and inhuman treatment.
4. Sentence to imprisonment in any state prison or state reformatory subsequent to the marriage; and in such a case a pardon shall not restore the conjugal rights.
5. Wilful desertion for one year next preceding the filing of the complaint.
6. Habitual drunkenness for one year immediately preceding the filing of the complaint. (R. L. § 3574, as amended by Laws 1909, c. 443, § 1.)

Cited in *Waller v. Waller*, 102 Minn. 405, 113 N. W. 1013.

See note under section 3570.

Cruel and inhuman treatment.—Repeated charges, made by the wife against the husband, of infidelity, not shown to be based on reasonable or probable cause, published for many years in private and in public, taken in connection with circumstances of aggravation, held sufficient to constitute cruel and inhuman treatment. *Williams v. Williams*, 101 Minn. 400, 112 N. W. 528.

A finding that defendant was not guilty of cruel and inhuman treatment was sustained by the evidence. The court did not err in receiving evidence tending to show the conduct and manner of life of plaintiff. *Haver v. Haver*, 102 Minn. 235, 113 N. W. 382.

3579. Service—Publication.—Copies of the summons and complaint shall be served on the defendant personally, and, when such service is made out of this state and within the United States, it may